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CLERK  
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

GARY WASHINGTON RUCKER,

Plaintiff,

v.

CHASE SWENSEN, KAI SAFSTEN, and  
OGDEN CITY POLICE DEPARTMENT,

Defendants.

**ORDER ADOPTING REPORT AND  
RECOMMENDATION**

Case No. 1:15-cv-00054-JNP

District Judge Jill N. Parrish

Before the court is a Report and Recommendation prepared by Magistrate Judge Oberg (ECF No. 68). On December 29, 2020, the above-named Defendants moved the court to dismiss Plaintiff's action for failure to prosecute, or in the alternative to compel discovery answers and amend the scheduling order in this matter. In her Report and Recommendation, Judge Oberg recommends denying Defendants' motion to dismiss the action.<sup>1</sup> Judge Oberg notified the parties that a failure to timely object to her recommendation could constitute a waiver of further objection. No party filed an objection within the allotted time.

Because no party objected to the Report and Recommendation, any argument that it was in error has been waived. *See United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir. 1996). The court will decline to apply the waiver rule only if "the interests of justice so dictate." *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991). The court has reviewed the

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<sup>1</sup> In a separate order (ECF No. 69), Judge Oberg granted Defendants' motion in the alternative to compel discovery and modify the scheduling order.

Report and Recommendation and concludes it is not clearly erroneous. Thus, the court finds that the interests of justice do not warrant deviation from the waiver rule and ADOPTS IN FULL the Report and Recommendation.

Accordingly, the court ORDERS as follows:

1. The Report and Recommendation (ECF No. 68) is ADOPTED IN FULL.
2. Defendants' Motion to Dismiss is DENIED.

DATED June 4, 2021.

BY THE COURT



Jill N. Parrish  
Jill N. Parrish  
United States District Court Judge